

ATTORNEY GENERAL
GREGORY H. SMITH

DEPUTY ATTORNEY GENERAL
DEBORAH J. COOPER

THE STATE OF NEW HAMPSHIRE



ATTORNEYS
DANIEL J. MULLEN
JAMES D. CAHILL, III
RONALD F. RODGERS
JEFFREY R. HOWARD
G. DANA BISBEE
GREGORY W. SWOPE
PETER T. FOLEY
STEVEN M. HOURAN
EVE H. OYER
LESLIE J. LUDTKE
ROBERT P. CHENEY, JR.

THE ATTORNEY GENERAL
STATE HOUSE ANNEX
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

ASSISTANT ATTORNEYS GENERAL
JOHN T. PAPPAS
JAMES E. TOWNSEND
ANNE R. CLARKE
MARC R. SCHEER
DONALD J. PERRAULT
MARTIN R. JENKINS
PETER W. MOSSEAU
BETSY S. WESTGATE
EDWARD L. CROSS, JR.
MARTHA V. GORDON
PETER C. SCOTT
MICHAEL A. PIGNATELLI
BRIAN T. TUCKER
PAUL BARBADORO
BRUCE E. MOHL
JOHN A. MALMBERG
DOUGLAS L. PATCH
LORETTA S. PLATT

April 28, 1983

Ms. Tess Petix, Director
Division of Human Resources
11 Depot Street
Concord, New Hampshire 03301

Dear Ms. Petix:

By memo dated April 13, 1983, you asked for an opinion from our office on the following issue:

"Can the Division of Human Resources repay the federal government for 'questioned costs' in the same manner as 'disallowed costs' that you indicated in your letter to us on January 24, 1983?"

It is our informal opinion that questioned costs may be repaid in the same manner as disallowed costs.

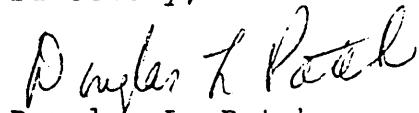
After reviewing the applicable statutes, 42 U.S.C. §§8621, et seq., and regulations, 42 C.F.R. §96, there does not appear to be any distinction between questioned and disallowed costs. Moreover, as we pointed out in the letter of January 24, 1983, "under the block grant programs the states are primarily responsible for interpreting the governing statutory provisions." 45 C.F.R. §96.50(e). Since we see no reason for distinguishing between these two types of costs for the purposes of repayment, the various methods for repayment of disallowed expenditures cited in our letter of January 25, 1983 would also be available for repayment of questioned costs.



We would like to point out once again, however, that the State must be provided with an opportunity for a hearing before it may be ordered to repay any costs. This is an avenue which we may want to discuss further before you make any plans for repayment.

I trust this has answered your question. Please let me know if you wish to discuss this further.

Sincerely,



Douglas L. Patch
Assistant Attorney General
Division of Legal Counsel

DLP:ab
#83-57-I